



NUMBER 13-16-00617-CV

COURT OF APPEALS

THIRTEENTH DISTRICT OF TEXAS

CORPUS CHRISTI - EDINBURG

IN RE RENÉ G. TREVIÑO

On Petition for Writ of Mandamus.

MEMORANDUM OPINION

**Before Chief Justice Valdez and Justices Rodriguez and Benavides
Memorandum Opinion Per Curiam¹**

By petition for writ of mandamus and amended petition for writ of mandamus, René G. Treviño seeks to compel the trial court to set aside its order denying a jury trial in a bill of review proceeding. Relator also seeks emergency relief staying the November 21, 2016 hearing set on the bill of review.

Mandamus is an extraordinary remedy. *In re H.E.B. Grocery Co., L.P.*, 492 S.W.3d 300, 302 (Tex. 2016) (orig. proceeding) (per curiam). Mandamus relief is proper to correct

¹ See TEX. R. APP. P. 52.8(d) (“When granting relief, the court must hand down an opinion as in any other case,” but when “denying relief, the court may hand down an opinion but is not required to do so.”); TEX. R. APP. P. 47.4 (distinguishing opinions and memorandum opinions).

a clear abuse of discretion when there is no adequate remedy by appeal. *In re Christus Santa Rosa Health Sys.*, 492 S.W.3d 276, 279 (Tex. 2016) (orig. proceeding). The relator bears the burden of proving both of these requirements. *In re H.E.B. Grocery Co., L.P.*, 492 S.W.3d at 302; *Walker v. Packer*, 827 S.W.2d 833, 840 (Tex.1992) (orig. proceeding). An abuse of discretion occurs when a trial court's ruling is arbitrary and unreasonable or is made without regard for guiding legal principles or supporting evidence. *In re Nationwide Ins. Co. of Am.*, 494 S.W.3d 708, 712 (Tex. June 24, 2016) (orig. proceeding); *Ford Motor Co. v. Garcia*, 363 S.W.3d 573, 578 (Tex. 2012). We determine the adequacy of an appellate remedy by balancing the benefits of mandamus review against the detriments. *In re Essex Ins. Co.*, 450 S.W.3d 524, 528 (Tex. 2014) (orig. proceeding); *In re Prudential Ins. Co. of Am.*, 148 S.W.3d 124, 136 (Tex. 2004)) (orig. proceeding).

The Court, having examined and fully considered the petition for writ of mandamus and the applicable law, is of the opinion that relator has not shown himself entitled to the relief sought. *See generally In re Christus Santa Rosa Health Sys.*, 492 S.W.3d at 279; *In re Johnson*, 238 S.W.3d 846, 848 (Tex. App.—El Paso 2007, orig. proceeding); *see also In re Gore*, No. 05-15-01426-CV, 2015 WL 7731780, at *1 (Tex. App.—Dallas Dec. 1, 2015, orig. proceeding) (mem. op.); *In re Rice*, No. 04–15–00343–CV, 2015 WL 3616073, at *1 (Tex. App.—San Antonio June 10, 2015, orig. proceeding) (per curiam mem. op.). Accordingly, we DENY the petition for writ of mandamus and motion for emergency relief. *See* TEX. R. APP. P. 52.8(a).

PER CURIAM

Delivered and filed the
15th day of November, 2016.